

DOCKET NO.: X03-HHD-CV11-6032094-S : SUPERIOR COURT  
JAMES J. DESALLE, ET AL. :  
v. : COMPLEX LITIGATION DOCKET  
WAL-MART STORES EAST, LP, ET AL. : JUDICIAL DISTRICT OF HARTFORD  
October 3, 2016

**ORDER RE: WAL-MART'S ORAL JOINDER IN COOPER TIRE'S MOTION TO COMPEL OLD DOMINION TO COMPLY WITH SUBPOENA DUCES TECUM**

Before the Court is defendant Wal-Mart Stores East, LP's (Wal-Mart) oral joinder in Cooper Tire & Rubber Company's (Cooper) April 8, 2015 motion to compel (#275.00), seeking an order requiring nonparty Old Dominion Insurance Company (Old Dominion) to comply with a subpoena duces tecum issued by Cooper.

By way of review, on or about October 6, 2014, Cooper issued a subpoena duces tecum and notice of deposition of records custodian to Old Dominion (Old Dominion subpoena). Thereafter, Cooper filed a motion to compel Old Dominion's compliance with the subpoena. (#275.00.) The motion was heard on January 25, 2016 before the Honorable Grant Miller. During the hearing, Wal-Mart orally joined Cooper's motion to compel.

At the hearing, Judge Miller ordered Old Dominion to produce the withheld documents for the Court's in camera review. (#275.86.) That review was not completed prior to Cooper's August 31, 2016 withdrawal from the case.

The undersigned judge began presiding over the X03 docket on September 5, 2016. In a September 14, 2016 hearing in this matter, Wal-Mart raised the issue of the pendency of the Old Dominion in camera review. On September 20, 2016, in response to an inquiry from the Court, plaintiffs' counsel and Wal-Mart's counsel indicated through Mr. O'Connell, the court officer


assigned to the X03 docket, that they do not object to the undersigned taking over responsibility for any issues relating to the Old Dominion subpoena.

Accordingly, the Court has reviewed Cooper's motion to compel (#275.00), reviewed the transcript from the January 25, 2016 hearing, and heard from plaintiffs' counsel and Wal-Mart's counsel on September 23, 2016 on the issue of how, in light of Cooper's withdrawal from the case, issues relating to the Old Dominion subpoena remain subject to further court action.

Because Cooper is no longer a party to this action and was the sole issuer of the Old Dominion subpoena, the Court concludes that issues relating to compliance with the Old Dominion subpoena are no longer subject to further court action. Wal-Mart has not cited any authority — and the Court is not aware of any — for the proposition that, at least under the circumstances described above, a subpoenaed nonparty remains within the jurisdiction of the Court after the issuing party exits the litigation as a result of settlement or other action.

Accordingly, Wal-Mart's oral joinder in Cooper's motion to compel is denied without prejudice. In the event Wal-Mart issues a new subpoena to Old Dominion, the Court will take up forthwith any discoverability and/or compliance issues that are brought to the Court's attention.

It is so ordered.

 10/3/16  
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Ingrid L. Moll  
Superior Court Judge